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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR          | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/757,310      | 01/09/2001  | Pierre Jean Francois Layrolle | 04148-00006         | 7859             |

7590

02/04/2002

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EXAMINER

LAMB, BRENDA A

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 02/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/757,310

Applicant(s)

Layrolle et al

Examiner

Lamb

Group Art Unit

1734

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 1/9/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.**

## Disposition of Claims

- ☒ Claim(s) 26 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 26 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Patent and Trademark Office  
Rev. 9-97

Part of Paper No. \_\_\_\_\_

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### DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benoit et al.

Benoit et al teaches the design of coating apparatus having a reactor vessel R-2, heating element TC, stirrer, a plurality of inlets/outlets connected to the reactor and a controlled source of carbon dioxide operatively connected to an inlet (see column 11 lines 1-53 and Figure 1). Benoit et al fails to teach an implant support and end use of coating apparatus for coating an implant. However, absent a clear recitation of how the implant support relates to the reactor vessel, it would have been obvious to modify the Benoit et al apparatus by providing a support for the

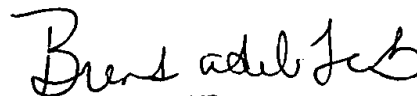
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implant such as a conveyor for feeding/discharging the substrate/implant from the vessel since it is conventional to do so in a coating apparatus. Further, it would have been obvious the Benoit et al apparatus is structured and arranged to coat a variety of materials including these particulate materials to be used as an implant absent a clear showing of unexpected results and especially since it is known to implant pharmaceutical compositions (see column 6 lines 34-56).

Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 26 is confusing since it is unclear how the implant support relates to other elements of the apparatus.

Any inquiry concerning this communication should be directed to Brenda A. Lamb at telephone number (703) 308-2056.

  
BREND A. LAMB  
PRIMARY EXAMINER  
GROUP 1300